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Subject: ACTION: RA Update 09-30-21
Attachments: RA Update draft 09-30-jm.docx; Unused 09-30.docx

Importance: High

R6 Weekly Update September 30, 2021

- **Section 1: N/A**
- **Section 2: Regional Administrator Signature Items**
 - **Ozone Nonattainment Area, Sunland Park, New Mexico:** By **October 6**, R6 intends to propose approval of revisions to the New Mexico State Implementation Plan to meet the Emissions Inventory and Emissions Statement requirements of the CAA for the Sunland Park ozone nonattainment area for the 2015 8-hour ozone NAAQS.
 - **SO₂ SIP Revision, Rusk-Panola, Texas:** By **October 13**, R6 intends to file comments on Texas's proposed SO₂ attainment SIP for the nonattainment area in the vicinity of the Martin Lake power plant. The SIP addresses the requirements of Clean Air Act Subtitle D's nonattainment area planning requirements. R6 has noted and discussed with the Texas Commission on Environmental Quality several concerns with the proposed SIP.
 - **SIP Revisions, Oklahoma:** By **October 15**, R6 expects to propose approval of revisions to the Oklahoma State Implementation Plan (SIP) to update general provisions definitions and incorporation by reference provisions.
 - **Grambling State University, Louisiana:** R6 expects to sign a Memorandum of Understanding (MOU) with Grambling State University (GSU) in Louisiana and OECA to formalize a partnership and enhance collaboration between R6 and GSU. Under the MOU, R6 and GSU intend to work collectively to progress efforts focusing on preparing students to enter and compete in the federal workforce, providing expertise to review and enhance curriculums and participating on research efforts to promote environmental awareness.
- **Section 3: Hot Topics**
 - **Major policy, regulatory, compliance, or enforcement activities**
 - **Phillips 66 Bluewater Texas, offshore of Port Aransas, Texas:** R6 provided a comprehensive briefing for the OAR senior leadership team on historical and current perspectives relating to the Subpart Y applicability issues for all deep water port projects on **September 27**, and is now working on blueprints for all 112(g) projects regarding a path forward, depending on each current project's status. R6 is working on reviewing and sorting the numerous and robust comments received on the draft Notices of MACT Approval (NOMA) and draft permits. The context of public comments received on the Bluewater Texas project were a part of the leadership team briefing.

- **Public Water Supply Supervision (PWSS) Grant, Texas:** On **September 23**, R6 and the Texas Commission on Environmental Quality (TCEQ) resolved a disagreement on TCEQ's use of PWSS funds for compliance sampling/monitoring activities. R6 and TCEQ filed an executed settlement agreement with the Dispute Decision Official, acknowledging the grant conditions and TCEQ's agreement to refrain from using PWSS grant funds in this manner in the future unless/until a change in the applicable law or EPA's interpretation of the law.

Ex. 5 Deliberative Process (DP)

- **Northwest Arkansas Conservation Authority, Bentonville, Arkansas:** R6 issued an interim objection letter to the Arkansas Department of Environmental Quality (ADEQ) on **September 28**. Additional dialogue and information provided by ADEQ does not support increasing the total phosphorous (TP) concentration limit from 0.1 mg/l to 0.5 mg/l in the ADEQ's draft permit. The discharges from this facility are significant since they are to Osage Creek then to the Illinois River, which R6 determined were not only impaired in Oklahoma, but also in Arkansas based upon the State's narrative criterion.
- **Churchill Downs, New Orleans, Louisiana:** The Motion to Enter the Churchill Downs consent decree (CD) was filed on **September 27**, almost one year after the CD was lodged on September 28, 2020. The CD will be effective when entered by the court. Under the settlement, Churchill Downs will eliminate unauthorized discharges of manure, urine and process wastewater through operational changes and construction projects at an estimated cost of \$5,600,000. The company also will pay a civil penalty of \$2,790,000, the largest ever paid by a concentrated animal feeding operation in a CWA matter.
- **Firestone Polymers, Lake Charles, Louisiana:** This week, DOJ, on behalf of EPA and the Louisiana Department of Environmental Quality, will lodge a consent decree to resolve claims against Firestone Polymers, LLC for violating federal and state requirements during the production of styrene-butadiene rubber and polybutadiene rubber at its Lake Charles synthetic rubber manufacturing facility. The consent decree requires injunctive relief and civil penalties for violations of the CAA, CERCLA, Pollution Prevention Act, and the Louisiana state air pollution control requirements. The decree also provides for payment of a total civil penalty of \$3,350,000, (\$2,098,678.50 payable to U.S. and \$1,251,321.50 to Louisiana), performance of injunctive relief, a mitigation project and a Beneficial Environmental Project.
- **WTG Gas Processing, L.P., et al., Multiple Cities, Texas:** DOJ and EPA are planning to lodge a Consent Decree with WTG Gas Processing, L.P. (WTG) and its subsidiaries in the United States District Court for the Northern District of Texas on **September 30**. The Consent Decree will resolve violations of the Clean Air Act Section 112(r) under both the Chemical Accident Prevention Provisions in 40 C.F.R. Part 68 and the General Duty Clause of the Clean Air Act. These violations took place at eight natural gas processing plants run by WTG and its subsidiaries located throughout the state of Texas. To resolve these violations, WTG and its subsidiaries will pay a civil penalty of \$3.125 million as well as spend up to \$5 million on compliance measures.
- **Globe Union, Garland, Texas:** Removal activities continue at the Globe Union site. R6 is conducting air monitoring at the perimeter of excavation work zones with no measurements exceeding the site specific allowable particulate levels at any of the excavation work zones to date. Backfilling operations

will continue at residential properties as will disposal of contaminated soils. All excavation and backfill operations have been completed at Park Crest School. R6 does not plan to begin any new residential excavation operations and will focus on disposal and property restoration activities until after September 30.

Ex. 5 DP / Ex. 7(A)

- **Abandoned Wells, Lake Oologah-Winganon Area, Rogers County, Oklahoma:** R6 has begun well plugging operations at Lake Oologah. Three previously identified wells remain to be plugged and abandoned (P&A) at this site. The Oklahoma Corporation Commission (OCC) has identified two additional wells for evaluation and potential plugging. If the wells are found to be discharging oil that poses a threat to waters of the U.S., they will be plugged by R6 or by the responsible party if a viable responsible party is found. The Cherokee Nation plans to send a representative to observe these well plugging operations.
- **Texas Vermiculite, Dallas, Texas:** By **September 30**, R6 expects to sign the Administrative Order on Consent (AOC), which covers both the assessment and removal for the Texas Vermiculite site. R6 anticipates that the Responsible Party, W.R. Grace, will be signing the AOC imminently. Grace will begin seeking access agreements from property owners within the areas of investigation for the purpose of sampling to determine if asbestos is present in the soil. R6 anticipates mailing out fact sheets about the removal activities as early as October 1.
- **Homestake Mining Company, Cibola County, New Mexico:** By **September 30**, R6 expects to make a decision on the five-year review and protectiveness determination for the Homestake Mining Company Superfund Site. R6 deferred protectiveness until a reassessment of risk is completed for radon in ambient air in neighboring subdivisions, based on new toxicological information and the use of EPA's updated electronic calculator for assessing risk at radionuclide sites. This work will be completed and documented in an amendment to the FYR report in approximately one year.
- **PFAS Listing Petition, New Mexico:** On September 21, HQ issued a response signed by Barry Breen to the petition submitted by the New Mexico Governor requesting the listing of per and polyfluorinated substances (PFAS) as a class of chemicals within Subpart C of the Resource Conservation and Recovery Act (RCRA); or in the alternative, to list individual PFAS chemicals under RCRA. The response acknowledged shared concerns and that information provided is being reviewed along with constructive discussions with New Mexico Environment Department (NMED) Secretary Kenney. Responses to letters from NMED Secretary Kenney and Highland Dairy owner Art Schaap are still pending at HQ.
- **Union Pacific Railroad, Houston, Texas:** On September 28, R6 participated in a second conference call with the Texas Commission on Environmental Quality (TCEQ) to discuss R6's draft comments on the proposed Union Pacific Railroad permit. TCEQ was receptive to the comments and is aware that the plan is to submit the comments formally during the public comment period. The public comment period has been extended until a second public meeting is held, the date of which is still to be determined due to Covid-19 concerns. On September 30, R6 participated in a call with ATSDR, the Texas Department

of State Health Services, and the City of Houston Health Department to discuss health-related activities in the Kashmere Gardens area. R6 is working with the City of Houston and the community to schedule one or two small roundtable technical meetings during which R6's contractor would give an abbreviated version of its technical presentation.

- **Circle Court Ground Water Plume, Willow Park, Texas:** On September 28, R6 held a virtual public meeting to present the proposed remedy and receive comments and answer questions for the Circle Court proposed plan. The proposed interim remedy of soil vapor extraction in the source area addresses trichloroethene contamination in the vadose zone. There were approximately 22 attendees, of which 13 were local citizens and stakeholders. The meeting was also attended by TCEQ and Texas Department of State Health Services. No local media or state/local government attended.
- **National Energy Advisory Team:** On September 27, R6 hosted the National Energy Advisory Team biweekly meeting, which included an update on the STRONGER MOU development, the IOGCC annual conference and the IOGCC-EPA Taskforce meeting as well as member led topics. Additionally, the team discussed the upcoming REGROW act which covers abandoned/orphaned wells.
- **Industrial Facilities in Louisiana:** On September 29, R6 sent 15 Notification of Observed Emission letters to facilities which had been overflowed by a helicopter equipped with infrared cameras. In coordination with the Louisiana Department of Environmental Quality (LDEQ), R6 identified specific facilities throughout the state that are significant sources of volatile organic compounds and hazardous air pollutants (HAPs) that will be surveyed during this project. The goal of the industrial flyovers is to evaluate these facilities to determine the presence of significant unauthorized or underreported emissions of volatile organic compounds and HAPs. The flyovers so far have surveyed 159 facilities, 4441 tanks, 210 flares, and 51 other sources. Leaks were detected at 35 facilities from 84 discrete sources.
- **Denka Performance Elastomers, LaPlace, Louisiana:** EPA continues to monitor the ambient air around Denka's neoprene manufacturing facility through OECA's Continuous Air Monitoring Program (SPod) and publishes the chloroprene data on its public website. After monitoring impacts from Hurricane Ida, all SPods are operational at the six monitoring locations. On September 24, there was one dynamically triggered canister at Chad Baker and one triggered canister at Ochsner Hospital (trigger method unknown and to be verified during next site visit). On September 25, there were two dynamically triggered canisters at Chad Baker and Acorn and Hwy 44. On September 26, there was one dynamically triggered canister at East St. John the Baptist High School. EPA extended the Operational Phase of the SPod Monitoring to collect monitoring data during the facility turnaround and will continue monitoring at least through October 2021.
- **Mosaic Fertilizer, Uncle Sam Plant, Convent, Louisiana:** The facility is still without power and may be for another month. It is running on diesel generators; LDEQ seemed confident that the facility will be able to continue to procure diesel fuel. The facility has continued to build up its dikes using gypsum from Stack 4, and currently has more than six feet of freeboard, which should be enough to handle routine rainfall until the facility regains power unless another major storm comes through. LDEQ is not giving Mosaic approval to move its pH monitor. If Mosaic must discharge from its 003 and 004 outfalls simultaneously, it will be in violation of its permit. LDEQ enforcement does not believe that Mosaic will have to discharge from both outfalls simultaneously given its current situation.
- **Major events, emergencies/incidents, or meetings**
 - Individual tribal consultations scheduled with Osage Nation (**Sept. 28**); Cherokee Nation (**Oct. 1**); Choctaw Nation (**Oct. 1**); Quapaw Nation (**Oct. 13**); Muscogee Creek Nation (**Oct. 13**).

- On **October 6**, Arkansas Environmental Federation Convention
- On **October 12**, Environmental Federation of Oklahoma annual meeting

- **Choctaw Nation of Oklahoma:** On **September 27**, R6 and OITA held an individual consultation conference call with The Choctaw Nation of Oklahoma about the impacts of the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA). As part of SAFETEA, the state requested to administer its environmental regulatory programs within certain areas of Indian country, excluding tribal trust lands, allotments, and treaty fee lands. The scheduled consultation period ends on October 13, and R6 has extended the due date to receive comments from Tribes until the end of October. R6 has held consultations with several Tribal Nations that requested individual consultation: Ottawa Tribe of Oklahoma on September 13, Wichita and Affiliated Tribes on September 17, and Pawnee Nation of Oklahoma on September 23.

- **Nustar Energy, Hampton, Arkansas:** Approximately 200 residents were evacuated on **September 23**, after a heavy equipment operator struck a 10-inch underground pipeline containing anhydrous ammonia, owned and operated by Nustar Energy. The flow to the pipeline was shut down remotely by Nustar Energy quickly and the pipeline valves on either side of the breach were manually closed as well. Arkansas Department of Transportation reported the closure of approximately 3.5 miles of Highway 278 due to the ammonia release. An R6 On-Scene Coordinator and technical assistance contractors deployed to provide air monitoring and technical support, as requested by the State of Arkansas and local responders. The evacuation order was lifted on September 24 as air monitoring showed acceptable levels within the impacted areas of the communities. Nustar has since repaired the pipeline.

- **Section 4: N/A**